

February 4, 2005

Notes from meeting regarding Sunnyvale BMR Rental Housing Program

Attending: Bob Hines, Tri-County Apartment Association
Ryan Minniear, Tri-County Apartment Association
Nancy Smith, Housing and Human Services Commission
Chad Steward, Housing and Human Services Commission
Janet Farabaugh, St. Cyprian Peace and Social Justice Committee
Barry Del Buono, Emergency Housing Consortium
Nancy Tivol, Sunnyvale Community Services

The purpose of the meeting was to hear and to understand the positions of Tri-County Apartment Association and the positions/concerns of affordable housing advocates and Housing and Human Services Commissioners. We were not necessarily trying to come to consensus. These notes have been sent to each of those in attendance for additions/corrections before being forwarded to the City Manager and City Council.

There were several overall concerns:

Tri-County

- Why change a program with a 20-year success record?
- The “old system” was the same as those of Santa Clara and San Jose.
- The “old system” included audits and surveys to insure compliance.
- Housing is a regional issue.
- City Council did not approve new administrative procedures.

Others

- BMR units are vacant because many have rents higher than current fair market rents.
- City policy should be “economy-proof”, not requiring major changes during a slow economy and apartment vacancies.
- Hard to understand why BMR units are vacant given number of low-income people who live and work in Sunnyvale (other than price).
- Administrative procedures are not usually approved by Council, rather developed in accordance with Council policy/direction. City Council is then sent copies of new administrative procedures.

1. One-year lease requirement

Tri-County

- Not having a 12-month lease provides more flexibility for tenants.
- Renters are reluctant to commit to 12 months given changing economy, jobs, etc.
- A year lease puts more pressure tenants.
- Tri-County is willing to offer 3, 6, 9, and 12 month leases or month-to-month.

Others

- Moving costs and deposits are barriers for low-income families to obtain new housing.
- Some renters who have had problems with former landlords are leery to move without a lease.
- Tenants are hesitant to sign a one-year lease for a BMR unit when fair market rates and/or incentives are lower.
- Giving tenants choice of 3-12 months leases or month-to-month is acceptable.

2. Live or work in Sunnyvale requirement

Tri-County

- The requirement restricts the applicant pool.
- The requirement turns away eligible applicants.
- Preferable is the past practice of including a “priority 2” list for those not living or working in Sunnyvale to be used only if there was no one on the priority 1 list (living or working in Sunnyvale).
- Recent administrative procedures dropped list of professions to be given priority (teachers, child care workers, etc.).
- Some BMR units have been vacant for 70-120 days.
- City sets BMR rent amounts and 5% limit on annual increases. If rents were lowered, so would the amount on which the annual 5% increase is figured.

Others

- Difficult to believe that there aren’t people living or working in Sunnyvale eligible and applying for BMR units. Again, many apartments are available with rents below BMR unit prices. Also, given the economy, many landlords are offering big incentives/discounts.
- City sets the maximum BMR rent, so owners still have ability to lower the rents. We need to look at ways BMR prices could drop in slow economy without fixing the 5% annual increase on that temporarily lowered rental amount.
- In theory, we’re not opposed to establishing a “priority 2 list”, but first, we want to know why BMR units are vacant. Would like more information on those vacant BMR units.

Clarification: Tri-County said that this requirement excludes working homeless families because they haven’t lived in Sunnyvale for 6 months (residency requirement). Barry DelBuono said that HUD uses three ways to determine residency for homeless families: mailing address, city in which they last lived, or city in which their children attend school. Working homeless families who meet all other qualifications should have high priority for BMR units.

3. \$100 fee/City certification process

Tri-County

- Fee is too costly for low-income families.
- City certification process forces families to wait. Bad results in other cities.
- City process must be handled during normal working hours, between 8-5 on weekdays.
- Just another barrier for low-income tenants to find affordable housing.

- Re: certification, 25+ properties in Sunnyvale each has 2-3 on staff available nights and weekends. It takes only 24-48 hours to process, qualify and rent. City has 1-2 staff members, available 40 hours a week Monday through Friday only. Certification process alone would take 30 days simply to qualify people for the waiting list.

Others

- Basically agree with eliminating \$100 fee.
- While the Tri-County position seems to have merit, we would want to know why staff proposed the certification process before taking any action to eliminate it.
- City process must be handled during normal working hours, between 8-5 on weekdays.
- Waiting lists can be manipulated. City should at least have copies of complexes' waiting lists.

4. Average median income

Tri-County

- 70% AMI restricts applicant pool.
- Leads to vacant, unused units.
- 70% should be priority 1; 80% should constitute a priority 2 list.
- New procedures eliminate priority categories (teachers, child care workers, etc.).

Others

- What income currently is 70% and 80% of AMI? Tri-County response: \$59,000 and \$67,000 respectively.
- Hard to believe there aren't more applicants given these incomes (teachers, child care workers, etc., let alone lower paid employees). Would want to know why more aren't applying before adding the 80% second tier—are rents too high? why applicants don't qualify? how are units publicized? how are applicants treated?

5. Forcing families out of BMRs/allowing employees to apply for BMR program

Tri-County

- New procedures would force low-income employees of property owners out of their current BMR units, forcing working families from affordable housing.
- Apartment employees should be considered along with all other applicants, not given special treatment.
- Saves on commuting costs.

Others

- Is all or part of the cost of housing included in the employees' overall compensation? (Tri-County responded, "no") If so, shouldn't be in BMR units unless complying with Fair Housing requirements.
- Do employees who get BMR housing receive the same pay as those with same position who don't?

- Possible compromise: keep current employees in BMR units if they would otherwise qualify residency and if no violation of Fair Housing requirements. Future employees would join the waiting list without special treatment. Landlords can always use other (non-BMR units) for employees.

6. Changes in occupancy

Tri-County

- New administrative procedures do not allow Property Manager to require adding additional residents in BMR units to the lease.
- Places managers at tremendous risk and goes against standard operating procedures.

Other

- On the surface, this makes no sense. Need to understand change and rationale for it. (SCS, for example, cannot provide financial aid to someone not listed on a rental agreement or lease.)
- Additional people on the lease could result in income higher than BMR allowed limits. (Tri-County says this would show in annual renewal process.)

We do all agree that BMR units should not be vacant and should provide affordable housing to those most in need.

Subsequent communications

From Chad Steward

To help understand why there are vacancies, would like to know:

- Percentage of S'vale (or county) residents earning less than 70% of median income.
- Percentage of S'vale (or county) residents earning less than 80% of median income.
- Average, median, and maximum rents of BMR units in Sunnyvale (including units built before the downturn).
- Average, median, and maximum rents of BMR units county-wide or in San Jose and Santa Clara specifically.

From Bob Hines

We do not agree with the observations that BMR units are vacant because many have rents higher than current fair market rents. The providers of BMR units in San Jose and Santa Clara are not having any problems filling their units. From what our members have told us, rents offered for BMR units are not higher than current fair market rents. When asked one of the BMR providers testified at the Sunnyvale City Council Meeting that there is a \$300 difference in Market Based Units versus the BMR units at their property. Talk to Barry about this. It is important to put into context what type of portfolio you are talking about when assessing and characterizing "current fair market rents." You cannot compare a the deal an owner of 40 year old run down tri-plex will offer on a one-bedroom unit against the Market base rent and the BMR rent for a one-bed unit located in Grade A Luxury 300-unit complex that has swimming pools, fitness facilities, and Laundry onsite under professional management.

>>> Nancy Tivol <ntivol@svcommunityservices.org> 2/22/2005 3:01:21 PM >>>
Ryan from Tri-County just called me to followup on the BMR meeting. I told him that I had sent the minutes to all of you as well as to Bob Hines, that we had no further meetings or actions planned, and that the meeting was to understand each other's viewpoints<not necessarily to reach consensus nor to suggest policies.

I did mention two points to him, specifically stating that I was representing only myself, not SCS nor anyone else at the meeting.

First, Bob had mentioned that if apartment owners lower their rates, they would later be penalized in effect by a regulation that prohibits rent increases more than 5% a year. It is my understanding from staff in another city (verified this morning by Annabel), that, as Chad mentioned at our meeting, the City sets the maximum rent. However, landlords are free to lower the rent, and if they do, they may increase it again to the maximum at their discretion ...then add the 5% to that. So if they chose to lower rent due to the economy and prevailing rents, they would not be limited to a 5% increase on that lowered amount.

Second, in re-reading the minutes, I reported that in response to my question whether living in a BMR unit was part of an employee's compensation, Bob said no. In my notes however, I had recorded that at the same time, Ryan said yes. Virtually all of the speakers at the Council meeting were Tri-County Apartment employees who feared they would be evicted under the new regulations. My personal opinion is that they could be grandfathered in, but that in the future, any apartment complex employee should be subject to the same conditions and waiting list as everybody else. However, if their income substantially exceeds BMR regulations, they should not be able to remain. In addition, I learned from the county that there is amount allowable in these cases (employees receiving part of their compensation through housing). One last point regarding income. I would be interested to know if and how the salary for Tri County associated employees with housing provided differs from those without housing. I feel strongly that Tri-County (and anyone else) should not use BMR rents as compensation for their employees, and if their employees earn so little, that might be an issue in and of itself. There is no reason they can't provide partial rent for non-BMR units within fair housing allowable amounts.

I again told him that our clients are finding apartments at lower market rates than the BMR units and that these are comparable units (not run down complexes). In my opinion, that's why their BMR units are vacant and have been for some time.

Nancy

Nancy S. Tivol
Executive Director
Sunnyvale Community Services
Direct line: (408) 738-0121
Fax: (408) 738-1125
Email: ntivol@svcommunityservices.org